

1 JUDGE CHACHKIN: He's talking about programs that he
2 watched.

3 MR. ZAUNER: That's right.

4 JUDGE CHACHKIN: Well, I don't see how it's differ-
5 ent than anything else.

6 MR. ZAUNER: I think I agree, Your Honor. I think
7 this is objectionable also.

8 JUDGE CHACHKIN: This is a description of the
9 program, which I presume is going to be presented by the
10 station employees. That's basically what it is.

11 MR. ZAUNER: That's right. This is not the way to
12 introduce this kind of evidence of the nature of the pro-
13 gramming.

14 JUDGE CHACHKIN: The only thing that I -- might have
15 some relevance is paragraph seven. But that's so general, I
16 don't know if it helps at all. The fact that they've got
17 referrals from TBN; I don't know what that means. Some were
18 referred because they simply wanted a church in the area to
19 attend. Others called making -- seeking specific times of
20 ministries, such as marriage counselling. I, I don't know
21 what -- that's too general, it seems to me, to serve any
22 purpose. I'm not going to receive the exhibit. Trinity
23 Exhibit 29 is rejected.

24 (Whereupon, the document marked for
25 identification as Trinity Exhibit

1 No. 29 was rejected.)

2 JUDGE CHACHKIN: Now get to thirty-one, and I assume
3 we're going to have some argument on that. So, we'll --

4 MR. SCHAUBLE: Yes.

5 JUDGE CHACHKIN: -- we'll take a recess, ten-minute
6 recess before we get to that.

7 (Whereupon, a brief recess ensued.)

8 JUDGE CHACHKIN: The next exhibit is 31, which
9 consists of an extraordinary showing. As pointed out by
10 counsel, what -- 300 pages, almost 400 pages?

11 MR. DUNNE: Yeah, it's 400 pages, Your Honor --

12 JUDGE CHACHKIN: 400 pages.

13 MR. DUNNE: -- and essentially duplicative of the
14 verified statements that you've already rejected.

15 JUDGE CHACHKIN: And how many, how many individuals
16 are included here?

17 MR. DUNNE: 400, Your Honor.

18 JUDGE CHACHKIN: 400 individuals.

19 MR. DUNNE: And they're basically essentially the
20 same sort of testimony, that -- they're verified statements,
21 two, three, four, so on and so forth.

22 JUDGE CHACHKIN: But what I'm curious about, where,
23 where do you think you had a warrant to put in statements from
24 400 individuals? Even reading your arguments, you point out
25 the licensee was able to put on 40 witnesses, but where, where

1 -- when would the Commission ever allow 400 witnesses to
2 testify?

3 MR. DUNNE: Your Honor, I don't believe that they
4 want 400 witnesses to testify, but I believe they've allowed
5 large numbers of letters from the --

6 JUDGE CHACHKIN: Unsolicited letters.

7 MR. DUNNE: Unsolicited letters.

8 JUDGE CHACHKIN: Are these unsolicited?

9 MR. DUNNE: No, Your Honor.

10 JUDGE CHACHKIN: Any, any objections to 30?

11 MR. SCHAUBLE: Thirty-one, Your Honor.

12 JUDGE CHACHKIN: Thirty-one. I'm sorry.

13 MR. SCHAUBLE: Yes. I object to the entire exhibit
14 on several bases, Your Honor. First, the presiding judge has
15 full authority to limit the number of declarations. Trinity
16 could have offered, as Your Honor did in the Miami proceeding,
17 and I don't think Trinity has shown cause for, for going over
18 the, the 30-witness limitation.

19 I also object on the basis of relevance and compe-
20 tence. I, I don't think any of these statements are -- have
21 any relevant information or the -- the witnesses have been
22 shown to be competent to make the statements they make in
23 here.

24 JUDGE CHACHKIN: The Bureau have any objections?

25 MR. ZAUNER: We join in the objection on relevancy.

1 JUDGE CHACHKIN: All right. I will reject the
2 exhibit on two grounds. First of all, I think allowing the
3 testimony of 30 public witnesses provides sufficient informa-
4 tion for the Commission to determine the extent to which the
5 station has met the needs and interests of the community.
6 And, secondly, I agree that the testimony is not relevant to
7 the question of whether the station is entitled to renewal
8 expectancy. The arguments -- the objections which were sus-
9 tained relating to other verified statements of individual
10 viewers also applies here and I also would note that unlike
11 letters which -- unsolicited letters which are received,
12 counsel has admitted that these are solicited -- these state-
13 ments were solicited. The exhibit is rejected.

14 (Whereupon, the document marked for
15 identification as Trinity Exhibit
16 No. 31 was rejected.)

17 JUDGE CHACHKIN: Thirty-two. I guess we're getting
18 to some -- no. I guess 32 is the station employees.

19 MR. SCHAUBLE: Correct, Your Honor. Thirty-two is
20 Scott Jackson.

21 JUDGE CHACHKIN: All right. Any objections to 32?

22 MR. SCHAUBLE: Yes, Your Honor. I have some. I
23 object to paragraph two, which starts on the first line of
24 page 1 and going on to page 2, and also to tab A, which are
25 the letters referred to.

1 JUDGE CHACHKIN: Oh, let's see now. Paragraph two.
2 So, your objection is to paragraph two and tab A?

3 MR. SCHAUBLE: Tab A, Your Honor.

4 JUDGE CHACHKIN: Anything else?

5 MR. SCHAUBLE: I have other specific objections,
6 Your Honor, but do you want me to discuss this --

7 JUDGE CHACHKIN: Well, let's take up paragraph two
8 and tab A first.

9 MR. SCHAUBLE: Your Honor, I object on the basis of
10 relevance. This is a -- certain letters received by the
11 station. Your Honor reviews the letter. In the Miami pro-
12 ceeding Your Honor rejected types of letters similar to these.
13 If you go and review the letters, there's nothing -- general
14 -- just general opinions here. I don't think there's anything
15 relevant. I also have specific problems with certain of the
16 letters. For instance, on page -- the, the second letter in
17 tab A is from somebody in Savannah, Georgia, who's not even
18 within the service area of the proposed station. And in the
19 next letter, "Dear Paul and Jan Crouch, my name is April
20 Richardson from Braselton, Georgia. I'm nine years old. I
21 love your program. I go to church at the Braselton Church of
22 God. And I would like to have that night light." I don't
23 think these, these letters are the sorts of material the
24 Commission considers or that this material has any relevance
25 to this proceeding.

1 MR. DUNNE: Your Honor, with respect to the
2 Savannah, Georgia, letter, I would, would confess that's an
3 oops. That is not within the service area. I would agree
4 that that's not relevant. The others are offered simply as
5 reactions from viewers and unsolicited letters from viewers
6 about the, the station's service.

7 JUDGE CHACHKIN: All right. So, you object to all
8 the letters, I gather, on the grounds of relevancy? Is
9 that --

10 MR. SCHAUBLE: Correct, Your Honor. I object to
11 paragraph two, which discusses the letters. In the Miami
12 proceeding, Your Honor, Your Honor rejected such letters and
13 also the portion of the testimony which dealt with and dis-
14 cussed these letters.

15 MR. DUNNE: Your Honor, I would, would note that the
16 in Pillar of Fire, a renewal case involving an FM station,
17 there was -- the Commission accepted a sample of letters,
18 unsolicited letters from viewers about the -- excuse me,
19 listeners in that case; it was a radio station -- concerning
20 the station's service and its relationship. In Video 44 I
21 believe there were 83 viewer letters that were accepted. In
22 Intercontinental Radio there were 14 congratulatory letters
23 that talked about the station's service. In Seattle Public
24 Radio, there were a number -- a sample of letters from the
25 general public about the station's service, et cetera. The

1 fact that there were letters that were offered concerning the
2 station's service and what it does for the, the, the community
3 has been accepted as evidence in other proceedings concerning
4 renewal expectancy.

5 JUDGE CHACHKIN: What's the Bureau's view?

6 MR. ZAUNER: Your Honor, the Bureau joins in the
7 objection. The letters appear to go to the quality of the
8 programming offered by the station.

9 MR. SCHAUBLE: Your Honor, I would just point out
10 that as far as I can tell none of these letters go -- talk
11 about the station's service to the community per se. They,
12 they're just general -- they don't talk about public service
13 programs or I'm not even sure they talked about any specific
14 programs. They're just very general and, and vague, and I --

15 JUDGE CHACHKIN: Do they talk about any specific
16 programs?

17 MR. DUNNE: No, Your Honor, they do not. They're --
18 they are general letters: I watch TBN programming. And in
19 one instance, the last letter, they talk about the -- specifi-
20 cally we have a lot of, have a lot of crime here and we need
21 to pray this -- the -- pray that -- gives a why -- that's --
22 but, no, there's no specific programs that are mentioned.

23 JUDGE CHACHKIN: Well, how, how is the first letter
24 probative?

25 MR. DUNNE: It's not, Your Honor, because it's

1 outside the service area.

2 JUDGE CHACHKIN: Oh, is that -- no.

3 MR. SCHAUBLE: That, that, that was the second
4 letter.

5 JUDGE CHACHKIN: Oh, all right. Lawrenceville,
6 Georgia, you agree is not probative?

7 MR. DUNNE: Yes, sir.

8 JUDGE CHACHKIN: Let's look at the second letter.

9 MR. DUNNE: That's -- the second letter, excuse me,
10 Your Honor, is from Savannah, Georgia. That's not probative.
11 I believe Lawrenceville is within the --

12 JUDGE CHACHKIN: Lawrenceville is --

13 MR. DUNNE: -- service area.

14 JUDGE CHACHKIN: -- within the service area. That's
15 what I thought you said. Is it within the service area?

16 MR. DUNNE: Yes, sir, it is.

17 JUDGE CHACHKIN: Now, all it talks about there is
18 sending them money. It doesn't discuss any specific program.

19 MR. DUNNE: No, it does not, and neither do any of
20 the others. They're just general. They're --

21 JUDGE CHACHKIN: Then how --

22 MR. DUNNE: -- saying that we enjoy TBN programming,
23 we enjoy Channel 63.

24 JUDGE CHACHKIN: Well, how is it probative then?

25 Even if I agreed with you these other cases allowing evidence

1 | that the station's -- that listeners' views about programs if
2 | it doesn't discuss any specific programs?

3 | MR. DUNNE: No, sir. It -- to be consistent with
4 | your earlier ruling, rulings, you would reject them.

5 | JUDGE CHACHKIN: Well, I, I will reject it, then, on
6 | the grounds it doesn't even discuss any particular programs.
7 | It doesn't provide any evidence as to how the station is
8 | serving the needs of the community. Now, as far as paragraph
9 | two is concerned, all we have is -- if, if the letters are
10 | rejected, it doesn't seem to me that paragraph two is
11 | relevant.

12 | MR. DUNNE: I agree, Your Honor.

13 | JUDGE CHACHKIN: All right. Well, paragraph two
14 | will not be received and the letters, tab A, is not received.
15 | Let's go on. Any other objections?

16 | MR. SCHAUBLE: Yes, Your Honor. My next objection
17 | is on page 9, paragraph 14.

18 | JUDGE CHACHKIN: Page 9. Does the Bureau have any
19 | objections before page -- paragraph nine?

20 | MR. ZAUNER: No, Your Honor.

21 | MR. SCHAUBLE: I'm sorry, Your Honor. Page 9 --

22 | JUDGE CHACHKIN: All right.

23 | MR. SCHAUBLE: -- paragraph 14.

24 | JUDGE CHACHKIN: All right. What's your objection
25 | on page 9?

1 MR. SCHAUBLE: I object to the last sentence of the
2 paragraph, Your Honor, where it reads, "WHSB-TV's television
3 market, the Atlanta television market, a number of stations
4 broadcast a greater or lesser amount of local and national
5 news."

6 JUDGE CHACHKIN: There, there is no factual evidence
7 there. That's just a general statement. It's not backed up
8 by any facts, is it? Do you have any evidence to support for
9 this statement?

10 MR. DUNNE: No, Your -- well, Your Honor, this
11 gentleman lived in Atlanta, watched the other stations, and
12 said they all did broadcast some news of greater and lesser
13 degree for whatever --

14 JUDGE CHACHKIN: What does that mean, it broadcasts
15 lesser -- greater or lesser? What does that mean?

16 MR. DUNNE: That means what it says, Your Honor,
17 that, that, that some broadcast more news than others but they
18 all broadcast local or national news. That's all it says.

19 JUDGE CHACHKIN: Yeah, but what's the point of it?
20 What is he saying here?

21 MR. DUNNE: He's saying we broadcast no news, but
22 everyone else broadcasts some news. It's relevant, Your
23 Honor, in respect to the licensee's judgment about whether
24 there was a need for that particular station to broadcast
25 news, that the fact that other broadcast stations, every one

1 of them do broadcast news. And there are cases, Your Honor,
2 that says the licensee may look at what's broadcast by other
3 stations in determining what, what it broadcasts responsive to
4 the community needs.

5 JUDGE CHACHKIN: But we don't know what -- how much
6 local news is broadcast by these other stations, any particu-
7 lar station.

8 MR. DUNNE: No, sir.

9 JUDGE CHACHKIN: So, how could we draw a conclusion
10 whether there's a need for more local programming or what?
11 Then I -- there's no factual underpinning for this testimony,
12 is there? It's just a, a statement that doesn't indicate the
13 nature of the viewing.

14 MR. DUNNE: No. He doesn't -- that he viewed 24
15 hours a day or whatever, Your Honor. He just says --

16 JUDGE CHACHKIN: Doesn't indicate that he looked at
17 the station's programming, as indicated in its -- when it
18 filed for renewal or anything else.

19 MR. DUNNE: Well, Your Honor, all, all this basi-
20 cally says is that it -- you know, that there are news --
21 there is news broadcast on every other TV station that's,
22 that's -- it serves the Atlanta market. That's all it says.
23 And I think he's competent to make that statement. All he has
24 to do is turn on the TV, for whatever it's worth, you know,
25 for 30 seconds a day. If there's news on it, that that --

1 | there's a factual underpinning for that particular statement.
2 | I mean, it doesn't claim to say this station has -- you know,
3 | broadcasts, you know, 35 minutes or this one an hour and a
4 | half or this one, you know, two hours or this one 10 minutes.
5 | It just says every other station broadcasts news. Period.
6 | That's all.

7 | MR. SCHAUBLE: Your Honor, I think it --

8 | JUDGE CHACHKIN: But it's making an argument some-
9 | how. Because the other stations broadcast news, that's the
10 | reason why it doesn't broadcast news.

11 | MR. DUNNE: No. No. That's my job, Your Honor.
12 | That's all it says, is that other stations broadcast news.
13 | That's all. No more, no less.

14 | MR. SCHAUBLE: Your, Your Honor, I think another
15 | problem with that is --

16 | JUDGE CHACHKIN: This is not your testimony. This
17 | is his testimony though. This is that some kind of station is
18 | making an argument here.

19 | MR. DUNNE: No. All he's saying is that, you know,
20 | I'm the station manager and that no other -- these other
21 | stations and --

22 | JUDGE CHACHKIN: Well, what is the relevancy whether
23 | the other stations broadcast news or not of lesser or more?

24 | MR. DUNNE: Well, the, the fact that --

25 | JUDGE CHACHKIN: I mean, we're interested in the

1 station's -- why the station did or didn't do what it did.
2 Now, there's nothing here indicating that this somehow played
3 a role in the station's decision not to broadcast local news
4 or not to broadcast news. So, this statement by itself means
5 nothing unless somehow it played a role in decision-making of
6 the station.

7 You can't make the argument for her. I mean, the
8 station is the one that --

9 MR. DUNNE: Well, I, I can make the argument, Your
10 Honor, that, that -- whether there's a need for local -- the
11 fact that there -- every other station that serves the market
12 broadcasts news is relevant to whether there's a need for this
13 particular station to broadcast more news.

14 JUDGE CHACHKIN: No, no. It's the station who makes
15 that decision and the station has to base its decision on some
16 kind of examination or evaluation. You can't make the
17 argument after the fact that this is why the station didn't
18 broadcast news or did -- why it broadcast news. The station
19 is the one -- this, this testimony has to reveal the reasons
20 why. Otherwise, this sentence by itself is irrelevant and I'm
21 not going to receive it. The station's not using this as a
22 basis to why it didn't broadcast any news. It's not saying it
23 took into consideration the fact that it made an examination
24 of all the stations and decided on that basis it won't present
25 news. You can't make that argument for them. We're interest-

1 ed in why the station programmed the way it programmed. And
2 there's nothing here indicating that it -- the reason it
3 programmed the way it did was because of what other stations
4 were presenting in the market.

5 MR. DUNNE: I understand, Your Honor.

6 JUDGE CHACHKIN: All right. Then I'm not going to
7 receive that sentence. It's irrelevant since it didn't play
8 any role, apparently, in the station's decision. So, the last
9 sentence of paragraph 14 is not received. Any other
10 objections?

11 MR. SCHAUBLE: Yes, Your Honor. My next objection
12 is on the bottom of page 11 going on to page 12. My
13 objection --

14 JUDGE CHACHKIN: Bottom of page 11?

15 MR. SCHAUBLE: Bottom of page 11, Your Honor,
16 concerning the "Real Videos Program."

17 JUDGE CHACHKIN: Yes.

18 MR. SCHAUBLE: I object on the basis of relevance,
19 that the Commission always considered a music video program to
20 be entertainment and this has no relevance to, to renewal
21 expectancy.

22 JUDGE CHACHKIN: What's your response?

23 MR. DUNNE: Your Honor, this, this is specifically a
24 children's program. It's directed to teenagers, who are
25 specified as children. That, you know, with respect to

1 children's programming of a program that is primarily
2 entertainment may serve the positive emotional, et cetera,
3 development of the child in that, you know, there is evidence
4 here and elsewhere that that is served in specific ways. And
5 the fact that it's a nonentertainment program, you know, does
6 not necessarily preclude it from serving children's needs.
7 And it's all -- it's not all entertainment because, as this --
8 testimony states, there are certain things that go on about
9 lessons in physical and cultural geography and the language of
10 the place where they are that, that certainly deals with the,
11 you know, informational and educational needs of, needs of
12 children. That's why that's being offered. It's not being
13 offered for anything else other than a description of a
14 children's program.

15 JUDGE CHACHKIN: What is the Bureau's position?

16 MR. ZAUNER: Your Honor, the, the Bureau does not
17 believe that this information should be excluded simply be-
18 cause the educational content of the program may have been in
19 the context of an entertainment program --

20 JUDGE CHACHKIN: The only objection I have is to the
21 word "wholesome." I don't know what that means.

22 MR. ZAUNER: Okay.

23 MR. DUNNE: Okay. Then why don't we strike it, Your
24 Honor, if it bothers you.

25 JUDGE CHACHKIN: All right.

1 MR. DUNNE: I'm not going to argue it in Findings
2 that it's wholesome.

3 JUDGE CHACHKIN: All right. All right. Is that the
4 end -- the Bureau has no objection?

5 MR. ZAUNER: The Bureau has no objection.

6 JUDGE CHACHKIN: I will overrule the objection to
7 paragraph 19. Any other objection?

8 MR. SCHAUBLE: Thank you, Your Honor. My next
9 objection would be page 13, paragraph 21. This would be a
10 similar objection, that a program of this description would
11 not be relevant to, to renewal expectancy.

12 JUDGE CHACHKIN: The objection is overruled. Any
13 other objection?

14 MR. SCHAUBLE: None, Your Honor.

15 JUDGE CHACHKIN: I mean, you could argue the weight.
16 You could argue that the Commission -- that this is not as
17 much merit as perhaps news and public affairs, but I think the
18 station should be permitted to put forth what their
19 programming is.

20 MR. SCHAUBLE: Very well, Your Honor.

21 JUDGE CHACHKIN: Any other objection?

22 MR. SCHAUBLE: Page 14, paragraph 24, Your Honor. I
23 would object on the basis of relevance. And I would point out
24 here, Your Honor, in this case there's no similar showing as
25 there was of -- in the case of "Real Videos," that there was

1 any sort of instructional or --

2 JUDGE CHACHKIN: What is this now? What, what --

3 MR. SCHAUBLE: Paragraph 24, page 14, the --

4 JUDGE CHACHKIN: Again, I will let the station put
5 in whatever program they presented and you could argue whether
6 you consider it to be something the Commission should give
7 credence -- give credit to or extent to which credit is war-
8 ranted. This is the station's programming. I'll overrule
9 your objection.

10 MR. SCHAUBLE: Okay. Page 19, Your Honor. On the
11 carryover paragraph, about -- starting on the eighth line
12 down, there are two sentences concerning the "Treasures Out of
13 Darkness Program."

14 JUDGE CHACHKIN: Yes?

15 MR. SCHAUBLE: I object to those sentences on the
16 basis of competence. The witness says here he didn't watch
17 the program, so how can he -- how, how can he offer testimony
18 -- how does this, how does this program add anything to the
19 record?

20 JUDGE CHACHKIN: Well, he's relying on the Quarterly
21 Reports.

22 MR. SCHAUBLE: The Quarterly Reports are going to be
23 in evidence here.

24 JUDGE CHACHKIN: Well, he's describing what the
25 Quarterly Reports show.

1 MR. DUNNE: And he can testify to his own personal
2 knowledge that the show was hosted by Sonny and Julie
3 Arguinzoni. That's all it says, Your Honor.

4 JUDGE CHACHKIN: I'll overrule the objection. Any
5 other objection?

6 MR. SCHAUBLE: Your Honor, I believe that completes
7 my objections to Exhibit 32.

8 JUDGE CHACHKIN: The Bureau have any other
9 objections?

10 MR. ZAUNER: No, Your Honor.

11 JUDGE CHACHKIN: All right. Trinity Exhibit 32 with
12 the exception of, of the parts which I've rejected is received
13 in evidence.

14 (Whereupon, the document marked for
15 identification as Trinity Exhibit
16 No. 32 was received into evidence
17 subject to the Judge's rulings made
18 hereto.)

19 JUDGE CHACHKIN: Thirty-three.

20 MR. SCHAUBLE: Yes, Your Honor. I just have one
21 objection to 33.

22 JUDGE CHACHKIN: Let me find 33. Yes?

23 MR. SCHAUBLE: Page 9, paragraph 16. The last, the
24 last sentence, "The producers of the show..." My objection is
25 to the phrase, "who like Mr. Seculou (phonetic sp.) live and

1 work in Atlanta." I object to that phrase on the basis of
2 relevance. The record will show that this program was not
3 produced in the service area during the license term and that
4 the fact that these people happened to live in the service
5 area has no relevance to this proceeding.

6 JUDGE CHACHKIN: What's the relevance of the fact
7 they live in Atlanta?

8 MR. DUNNE: It would make a lot more relevant -- be
9 a lot more relevant, Your Honor, if Exhibits 6, 8, and what-
10 ever were, were admitted that talked about specific programs
11 that Jay Seculou did that specifically dealt with issues in
12 Atlanta. For example, the abortion, abortion situation. I
13 mean, there was a couple programs that talked about home
14 schooling, et cetera. The -- that's what, what's relevant.

15 JUDGE CHACHKIN: These are not local programs?
16 They're not being put forth as local programs?

17 MR. DUNNE: No, Your Honor. They are not produced
18 in Atlanta.

19 JUDGE CHACHKIN: They're not produced in Atlanta?

20 MR. DUNNE: No.

21 JUDGE CHACHKIN: Well, under those circumstances the
22 fact that they live in Atlanta is not relevant. The visitors
23 of the show -- most of the guests for the show, however, that
24 -- the way the sentence now reads. The phrase, "who like Mr.
25 Seculou live or work in Atlanta" is rejected. Any other

1 objections?

2 MR. SCHAUBLE: Your Honor, that completes my objec-
3 tions to 33.

4 JUDGE CHACHKIN: Does the Bureau have any objections
5 to 33?

6 MR. ZAUNER: No objections, Your Honor.

7 JUDGE CHACHKIN: All right. Trinity Exhibit 33 as
8 modified by my ruling is received.

9 (Whereupon, the document marked for
10 identification as Trinity Exhibit
11 No. 33 was received into evidence
12 subject to the Judge's rulings made
13 hereto.)

14 JUDGE CHACHKIN: And then the remaining exhibits
15 deal with the issues against Glendale, is that correct?

16 MR. DUNNE: That's correct, Your Honor, and Mr. May
17 will argue concerning those --

18 JUDGE CHACHKIN: All right.

19 MR. DUNNE: -- exhibits.

20 JUDGE CHACHKIN: Where do we go from here? What's
21 the next exhibits to deal with? We've taken care of Trinity's
22 exhibits.

23 MR. DUNNE: We have a shortspacing issue to deal
24 with.

25 JUDGE CHACHKIN: Yes.

1 MR. SCHAUBLE: Your Honor --

2 JUDGE CHACHKIN: I understand that, but as far as
3 34, 35, 36, are there objections to those exhibits?

4 MR. SCHAUBLE: Yes, Your -- there are, Your Honor.

5 JUDGE CHACHKIN: All right.

6 MR. SCHAUBLE: I think it might be easiest if we
7 just --

8 JUDGE CHACHKIN: These people are going to testify,
9 in any, in any event, so we could -- well, let's take up your
10 exhibits then, Glendale's exhibits.

11 MR. SCHAUBLE: Well, Your Honor, I think it might be
12 useful to have rulings on, on the three exhibits. Depending
13 on the rulings we get, Your Honor -- I mean, and at least one
14 of the exhibits, I object to the entire exhibit. And it seems
15 to me, Your Honor, if we can get a ruling it might effect,
16 one, whether we need these individuals for cross-examination
17 or -- and, two, what the scope for the cross-examination would
18 be.

19 JUDGE CHACHKIN: All right. That, that seems to be
20 fair. Then we'll take it up now.

21 MR. MAY: I would just urge, Your Honor, that in the
22 notices that were provided by Glendale on April 29 on this
23 matter concerning the order of its intention to proceed, it
24 indicated that it wanted to first present its evidence in, in
25 this matter. And so I -- it would seem to me that Exhibit 5

1 would be the one -- that is, Glendale Exhibit 5 logically
2 would be, would be the one to take next, but I, I guess under
3 these circumstances I have no problem in changing that order
4 and going to 34 first, Trinity Exhibit 34.

5 JUDGE CHACHKIN: Well, the only, the only witness we
6 were going to have was one witness, wasn't it?

7 MR. SCHAUBLE: Well, Your Honor, there was one --
8 there is possibly one witness of Glendale's, and that was --

9 JUDGE CHACHKIN: Yes.

10 MR. SCHAUBLE: -- Mr. Mullaney.

11 JUDGE CHACHKIN: One witness of Glendale's, yes.
12 But there's a possibility there may be a stipulation to Mr.
13 Mullaney's testimony. And then we're going to have the three
14 witnesses. So, there doesn't seem to be any controversy
15 concerning their other exhibits. All right. Let, let's
16 proceed then with 34. We may have a stipulation which --
17 whereby Mr. Mullaney may not have to testify.

18 MR. MAY: Very well, Your Honor.

19 JUDGE CHACHKIN: Thirty-four. You, you've offered
20 34, 35, and 36, I believe.

21 MR. DUNNE: Yes, I -- we have.

22 JUDGE CHACHKIN: All right. What, what are your
23 objections to 34?

24 MR. SCHAUBLE: Your Honor, I object to this entire
25 exhibit on the basis of relevance. This testimony relates to

1 a hypothetical and speculative site that nobody proposes to
2 operate from. Presumably, Trinity wants to argue that
3 Glendale should propose to operate from this site, but this
4 argument ignores two fundamental points.

5 First, Trinity's existing operation is shortspaced
6 by 18.14 kilometers to the Montgomery reference point. The
7 Presiding Judge has already ruled in denying the two Motions
8 for Summary Decision that Glendale is entitled to be treated
9 the same as Trinity. Your Honor has clearly rejected the idea
10 that Glendale must be held to a different standard than
11 Trinity.

12 I think the second important point which is not
13 clear on the face of the exhibits here is that Trinity and
14 Monroe Television, Inc., who Trinity bought the WHSG permit
15 from, has in fact rejected the WFOX site. And to give you
16 some background, Your Honor, the original Construction Permit
17 for WHSG proposed the WFOX site. While the assignment of that
18 permit from Monroe Television, Inc., to Trinity was pending,
19 not only was a Modification Application filed moving that site
20 -- moving the site from the WFOX site to the site they cur-
21 rently operate from, but there was a payment of \$200,000 to,
22 to make that site possible. I think what we have here, Your
23 Honor, is a situation where Trinity wants to argue to Your
24 Honor that Glendale should have gone to a site which was
25 clearly not suitable for Trinity's own purposes, and therefore

1 I think this exhibit concerning the site that nobody proposes
2 to operate from is not relevant.

3 JUDGE CHACHKIN: There would be no shortspacing from
4 this site?

5 MR. SCHAUBLE: That is correct, Your Honor. The --

6 JUDGE CHACHKIN: And I gather, I gather the -- what
7 purpose would be served by calling this individual as a wit-
8 ness for cross-examination?

9 MR. COHEN: Your Honor, the --

10 JUDGE CHACHKIN: Well, let, let me ask -- why would
11 you -- I mean, you've made your argument that you're not
12 required to operate from this site, but, I mean, all this
13 witness is saying, that the site is available. And you're not
14 disputing the fact that the site is available and that you're
15 not interested in operating from that site and you've made no
16 inquiries concerning space on the site.

17 MR. COHEN: Your Honor, I'm the one that's going to
18 be examining Mr. Mullinax, so may I respond to that?

19 JUDGE CHACHKIN: Yes.

20 MR. COHEN: Okay. Well, if you reject the argument
21 you just heard and you permit the evidence in, then I want to
22 challenge Mr. Mullinax's testimony on a number of grounds. I
23 want to, I want to establish his competence, for -- I want to
24 challenge his competence. I want to ask him a series of
25 questions about why Trinity left that site, if he knows. I

1 want to subject his direct testimony to as searching a cross-
2 examination as I'm able with my limited degree of ability to,
3 to do.

4 JUDGE CHACHKIN: But he's the chief engineer of --
5 all, all he's testifying is that the site is available for
6 use.

7 MR. COHEN: Well, and I want to challenge that. I
8 don't know that he knows that the, that the site's available.
9 I don't -- there's nothing in his testimony which establishes
10 that he's competent to make that statement.

11 JUDGE CHACHKIN: So, you're, you're contending the
12 site is not available?

13 MR. COHEN: I don't know if the site is available or
14 not, but I don't think you can --

15 JUDGE CHACHKIN: Was this individual deposed?

16 MR. COHEN: No, he was not deposed. But I don't
17 think this witness -- my sense is this witness is not compe-
18 tent to testify that the site is available, and that's what I
19 want to try to do on cross-examination.

20 MR. ZAUNER: Your Honor, the Bureau's position is
21 that this whole matter is, is totally irrelevant. As we
22 understand it, Glendale is not claiming that fully spaced
23 sites do not exist. And that being the case, who cares wheth-
24 er or not some particular site out there may be available or
25 not? It's irrelevant, absent a claim by Glendale that fully